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**FISCAL IMPACT STATEMENT**

**LS 6350**

**BILL NUMBER: SB 91**

**NOTE PREPARED:** Nov 23, 2004

**BILL AMENDED:**

**SUBJECT:** Hoosier Business Investment Credit.

**FIRST AUTHOR:** Sen. Ford

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State

**Summary of Legislation:** The bill removes the Economic Development for a Growing Economy (EDGE) Board from the administration of the Hoosier Business Investment Tax Credit. The bill provides that a taxpayer's state tax liability growth is always computed using the taxpayer's base state tax liability, and provides that the credit is available for hiring new employees. The bill removes the expiration date for the credit. It also provides that for a pass through entity the proportional amount of the credit to which a partner or shareholder of the pass through entity is entitled is applied against the partner's or shareholder's state tax liability.

**Effective Date:** January 1, 2006.

**Explanation of State Expenditures:** The bill requires the Department of State Revenue (DOR) to make the determination whether a taxpayer has made a qualified investment or hired the required number of new employees for purposes of the tax credits. In addition, the DOR could potentially incur additional administrative expenses relating to the revision of tax forms, instructions, and computer programs to incorporate the new employee tax credit proposed in this bill. These expenses presumably could be absorbed given the DOR's existing budget and resources.

The bill also relieves the Economic Development for a Growing Economy (EDGE) Board and the Indiana Department of Commerce (IDOC) of administrative demands relating to the Hoosier Business Investment Tax Credit. Under current statute, the EDGE Board is responsible for administering the tax credit, and the IDOC is required to provide administrative support to the EDGE Board in administering the tax credit. During 2004, the EDGE Board has approved Hoosier Business Investment Tax Credits for 54 qualified investment projects.

**Explanation of State Revenues: Summary:** The bill makes several changes to the Hoosier Business Investment Tax Credit that could potentially increase the amount of tax credits that may be claimed under this provision. The precise impact of these changes is indeterminable. The net revenue impact depends on the extent that collections from taxable activities and earnings attributable to the investment in new property or new employees is less than or exceeds the amount of credits claimed by businesses. However, if the investment or new employment would have occurred in the absence of the tax credit, the net impact would be the total credits claimed by businesses. The fiscal impact from these changes could potentially begin as early as the second half of FY 2006 if taxpayers adjust their quarterly estimated payments.

**Background Information:** The changes to the Hoosier Business Investment Tax Credit expected to have a fiscal impact are as follows.

(1) In addition to the existing tax credit for qualified investment, the bill provides for an additional tax credit for new employees hired by businesses that meet specified hiring requirements. The employment tax credit is equal to 30% of the wages and benefits paid to new employees only during the taxable year in which the new employees are first employed. To qualify for this credit, a taxpayer must increase employees in the state during the taxable year by at least 10 employees if the taxpayer employed at least 100 employees at the beginning of the taxable year; or at least 10% if the taxpayer employed fewer than 100 employees at the beginning of the taxable year. The credit is nonrefundable and may not be carried back. Unused tax credits may be carried over for up to nine years after the year in which the new employees were hired. The credit amount that the taxpayer may *claim* in the taxable year in which the investment is made is equal to the lesser of: (1) 30% of the qualified investment or (2) the taxpayer's state tax liability growth (see definition of "state tax liability growth" below).

(2) The bill also changes the definition of "state tax liability growth." Under current statute, the state tax liability growth is the difference between the taxpayer's state tax liability in a taxable year minus the greater of: (a) the taxpayer's state tax liability in the most recent prior taxable year in which part of a credit was claimed or (b) the taxpayer's tax liability in the taxable year immediately preceding the taxable year in which the investment was made. The bill would eliminate (a), above, and base the computation on the difference between the current year tax liability and the tax liability the year prior to the creditable investment. This could potentially allow businesses experiencing annual increases in tax liability either to use credits more quickly than otherwise, or use credits that would not otherwise be exhausted within the time limits of the law. In 2004 (the first year for the Hoosier Business Investment Tax Credit), the EDGE Board approved credits totaling about \$681.3 M for 54 qualified investment projects. According to the IDOC, only about 10% of the credits awarded so far (about \$68.1 M) could potentially be used by taxpayers under the current definition of state tax liability growth.

(3) The bill eliminates the requirements for tax credit review, approval, and oversight by the EDGE Board. This eliminates criteria, including employment and wage criteria, that a taxpayer is required to meet in order to qualify for the investment tax credit. (These criteria and other requirements to qualify for the tax credit are described below under *EDGE Board Requirements*.) Except for the provision prohibiting a taxpayer from claiming the tax credit when jobs are being relocated from one Indiana location to another, the remaining criteria and requirements are eliminated by the bill. Thus, the tax credit for qualified investment could be claimed whether or not it leads to increased employment or employee earnings which the credit is dependent upon under current statute. This could substantially increase the pool of businesses and investment that could qualify for the tax credit.

(4) The bill eliminates the sunset provision in current statute. Under current statute, the investment tax credit can only be awarded for qualified investment during tax years 2004 to 2007.

Revenue from the corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. The revenue from the individual AGI Tax is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). Since the changes are effective beginning in tax year 2006 and the EDGE Board approval is no longer required for the tax credits, the fiscal impact could potentially begin during the second half of FY 2006. This would also be contingent on taxpayers adjusting their quarterly estimated payments.

*Hoosier Business Investment Tax Credit:* Under current statute, the EDGE Board is authorized to award a taxpayer (an individual, corporation, or pass through entity) a nonrefundable tax credit for expenditures on qualified investment that the Board determines will foster job creation and higher wages in Indiana. The tax credit is equal to 30% of the qualified investment. However, the credit amount that the taxpayer may *claim* in a taxable year is equal to the lesser of: (1) 30% of the qualified investment or (2) the taxpayer's state tax liability growth. A taxpayer may claim the credit against the AGI Tax, Insurance Premiums Tax, or Financial Institutions Tax liability. If a pass through entity does not have a tax liability, the credit may be claimed by shareholders or partners in proportion to their distributive income from the pass through entity. The tax credit may be awarded only for qualified investment made during tax years 2004 to 2007. The credit is nonrefundable and may not be carried back. Unused tax credits may be carried over for up to nine years after the year in which the investment was made.

*EDGE Board Requirements:* Under current statute, the EDGE Board must approve the award of the Hoosier Business Investment Tax Credit to applicant businesses. In order to apply for the tax credit, the taxpayer must propose a project that creates new jobs or increases wage levels in Indiana. Before awarding a tax credit to the applicant, the EDGE Board must determine that all of the following exist: (1) the applicant has conducted business in Indiana for at least one year; (2) the project will raise employee earnings; (3) the project is economically sound, will increase employment opportunities, and strengthen the state's economy; (4) the tax credit is a major factor in undertaking the project; (5) the tax credit will have a positive fiscal impact to the state; (6) the taxpayer is not relocating jobs from one Indiana site to another; and (7) the average wage paid by the taxpayer at the project location will be at least 150% of the state minimum wage. The EDGE Board may grant the tax credit only for an amount of qualified investment that is directly related to expanding the workforce in Indiana. Current statute also requires the EDGE Board to enter into an agreement with each tax credit recipient: (1) describing the project; (2) specifying the tax credit; (3) requiring annual reporting of new employment; (4) specifying the minimum wage requirement; (5) requiring the qualified investment property to be maintained in Indiana for the lesser of its useful life or 10 years; and (6) maintaining at least the payroll level at the project location that preceded the qualified investment for the term of the tax credit. Current statute also contains a clawback provision in the event a taxpayer violates the tax credit agreement.

**Explanation of Local Expenditures:**

**Explanation of Local Revenues:**

**State Agencies Affected:** Department of State Revenue, Department of Commerce, EDGE Board.

**Local Agencies Affected:**

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